



and trade name GLOBAL GOLD, and the trademarks DEREK HEART and Heart and Flag Design in U.S. commerce in connection with the manufacture, advertising, promotion, distribution, and sale of clothing and apparel.

2. Opposer Global Gold, Inc. is the owner of United States Trademark Registration No. 2,212,264, issued on December 22, 1998, for the mark GLOBAL GOLD for “men’s, women’s and children’s clothing, namely, tops, hats, belts, socks, bodysuits, leggings, scarves, vests, swimming suits, swim trunks, cover-ups, shirts, undershirts, tank tops, t-shirts, blouses, sweaters, sweatshirts, sweat pants, skirts, jogging suits, shorts, pants, jeans, dresses, jumpsuits, rompers and jackets” in Class 25. This registration is valid, subsisting, and incontestable.

3. Opposer Global Gold, Inc. is the owner of United States Trademark Registration No. 2,206,519, issued on December 1, 1998, for the mark DEREK HEART for “men’s, women’s and children’s clothing, namely, tops, hats, belts, socks, bodysuits, leggings, scarves, vests, swimming suits, swim trunks, cover-ups, shirts, undershirts, tank tops, t-shirts, blouses, sweaters, sweatshirts, sweat pants, skirts, jogging suits, shorts, pants, jeans, dresses, jumpsuits, rompers and jackets” in Class 25. This registration is valid, subsisting, and incontestable.

4. Opposer Global Gold, Inc. is the owner of United States Trademark Registration No. 2,547,544, issued on March 12, 2002, for its Heart and Flag Design for “dress wear, formal wear, casual wear and sportswear, namely, hats, caps, visors, hoods, berets, head bands, sweat bands, kerchiefs, neckerchiefs, bandannas, wrist bands, bodysuits, leggings, sneakers, swimming suits, swim trunks, cover-ups, thermal underwear, shirts, under-shorts, tunics, halter tops, tank tops, jerseys, cotton woven shirts, knit shirts, polo shirts, t-shirts, blouses, sweatshirts, crew neck sweaters, v-neck sweaters, turtleneck sweaters, cowlneck sweaters, cardigans, dresses, skirts, jumpers, jumpsuits, pant suits, rompers, jogging suits, shorts, sweat shorts, jeans, pants, sweat pants, jackets, wind resistant jackets, outer jackets, and ski jackets” in Class 25. This registration is valid and subsisting.

5. Since well prior to the February 8, 2005 filing date of Applicant's application under Serial No. 78/562,512, and the November 15, 2004 date of first use and December 22, 2004 date of first use in commerce alleged in said application, Opposer Golden Touch Imports, Inc. has used the trademark and trade name GOLDEN TOUCH in U.S. commerce in connection with clothing and apparel items.

6. Opposer Golden Touch Imports, Inc. is the owner of United States Trademark Registration No. 1,271,880, issued on March 27, 1984, for the mark GOLDEN TOUCH for "ladies clothing-namely, sweaters, blouses, tops, pants, shorts, skirts and jackets" in Class 25. This registration is valid, subsisting, and incontestable.

7. Since well prior to the February 8, 2005 filing date of Applicant's application under Serial No. 78/562,512, and the November 15, 2004 date of first use and December 22, 2004 date of first use in commerce alleged in said application, Opposer Planet Gold Clothing Co., Inc. has used the trademark and trade name PLANET GOLD in U.S. commerce in connection with clothing and apparel items.

8. Opposer Planet Gold Clothing Co., Inc. is the owner of United States Trademark Registration No. 2,782,427, issued on November 11, 2003, for the mark PLANET GOLD for "clothing, namely, shirts, pants, belts, socks, jackets, vests, suits, dresses, shorts, skirts, sweaters, knit tops, shortalls, overalls and capris" in Class 25. This registration is valid and subsisting.

9. Since well prior to the February 8, 2005 filing date of Applicant's application under Serial No. 78/562,512, and the November 15, 2004 date of first use and December 22, 2004 date of first use in commerce alleged in said application, Opposer Golden Too, Inc. has used the trade name GOLDEN TOO in U.S. commerce in connection with clothing and apparel items.

10. Opposers Global Gold, Inc., Golden Touch Imports, Inc., Planet Gold Clothing Co., Inc. and Golden Too, Inc. are related companies within the meaning of Sections 5 and 45 of the Lanham Act, 15 U.S.C. §§ 1055 and 1127.

11. Opposers' goods associated with the above-cited trademarks and trade names (hereafter, "Opposers' Trademarks and Trade Names") have been sold extensively throughout the United States and have been substantially promoted and advertised since the first use thereof.

12. Opposers' Trademarks and Trade Names are well-known and highly regarded in the United States.

13. Opposers have developed valuable goodwill in Opposers' Trademarks and Trade Names in the United States.

14. On February 8, 2005, Applicant Liric Sales, Inc. filed the application at issue to register the mark GOLD HEART for "clothing and headgear; namely, sweaters, t-shirts, dresses, pants, skirts, tops, shorts and hats for women and children" in Class 25.

15. Due to the similarities between the Applicant's GOLD HEART mark and the Opposers' Trademarks and Trade Names, and the identical or nearly identical nature of the parties' respective goods, consumers are likely to be confused or mistaken as to the source, origin, association, endorsement, or relationship of the respective goods and services. Such confusion would inevitably result in irreparable injury to Opposers.

16. For the above reasons, any use of the mark GOLD HEART by Applicant is likely to cause confusion, cause mistake, or deceive the public, and cause the public to believe that the goods and services offered by Applicant under the mark GOLD HEART emanate from or are otherwise sponsored by or endorsed by either or all of the Opposers, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

17. For the above reasons, Applicant's GOLD HEART mark is likely to dilute the distinctiveness of Opposers' Trademarks and Trade Names in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

18. At the time Applicant selected its GOLD HEART mark, the Applicant had constructive, if not actual, notice of Opposers' longstanding prior and senior rights to the registration and use of the Opposers' Trademarks and Trade Names.

By reason of the foregoing, Opposers will be damaged by the registration of the mark GOLD HEART to Applicant.

**WHEREFORE**, it is respectfully requested that this opposition be sustained and that the registration sought by Application Serial No. 78/562,512 be denied.

The combined opposition fee in the amount of \$1,200.00 for four opposers for a single class is filed herewith. If for any reason this amount is insufficient, it is requested that Opposers' attorneys' deposit account No. 15-0700 be charged with any deficiency. This paper is filed in duplicate.

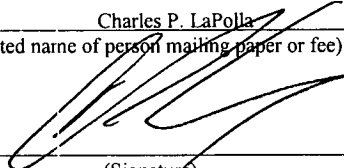
Date: New York, New York  
February 6, 2006

Express Mail" mailing label No. EV 604818525 US

Date of Deposit: February 6, 2006

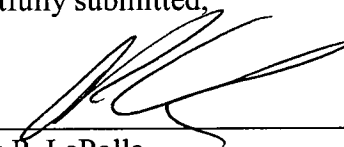
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

Charles P. LaPolla  
(Printed name of person mailing paper or fee)

  
(Signature)

CPL:CPG/sr

Respectfully submitted,

  
\_\_\_\_\_  
Charles P. LaPolla  
Charles P. Guarino

OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Tel: (212) 382-0700

Attorneys for Opposers